

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANABEL RUIZ and ERICK GOMEZ, individually)
 and on behalf of others similarly situated,)

Plaintiffs,)

vs.)

ALL-AMERICAN & ASSOCIATES, *et al.*,)

Defendants.)

Case No.: 2:10-cv-01312-GMN-GWF

FINDINGS & RECOMMENDATION
AND ORDER

This matter is before the Court on the Order to Show Cause (#95), filed May 9, 2012, wherein this Court ordered Defendant All American Painting, Drywall & Wallcovering, LLC to show cause, in writing, no later than May 21, 2012, why sanctions should not be imposed for their failure to comply with this Court's prior order (#91) to retain counsel. To date, Defendant All American Painting, Drywall & Wallcovering, LLC has failed to comply. Accordingly,

RECOMMENDATION

IT IS RECOMMENDED by the undersigned United States Magistrate Judge that the Answer of Defendant All American Painting, Drywall & Wallcovering, LLC should be **stricken** and its default entered based on Defendant's failure to comply with this Court's Order to obtain counsel.

ORDER

IT IS HEREBY ORDERED that the Clerk of the Court shall mail a copy of this Findings & Recommendation and Order to Defendant All American Painting, Drywall & Wallcovering, LLC, c/o Donnita Spallitta, at 260 Arch Hill street, Henderson, Nevada 89053.

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NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 29th day of May, 2012.



GEORGE FOLEY, JR.
United States Magistrate Judge